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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-891]

Hand Trucks and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert the publication date in the Federal Register.]

SUMMARY: The Department of Commerce (the Department) is currently conducting an administrative review of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC) covering the period of review (POR) of December 1, 2009, through November 30, 2010. We preliminarily determine that sales made by New-Tec Integration (Xiamen) Co., Ltd. (New-Tec), were below normal value (NV) at a de minimis level. We invite interested parties to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Fred Baker, Scott Hoefke, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2924, (202) 482-4947 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION

Background

On December 2, 2004, the Department published in the Federal Register the antidumping duty order on hand trucks from the PRC. See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China, 69 FR 70122 (December 2,

2004). On December 1, 2010, the Department published in the Federal Register its notice of opportunity to request an administrative review of the antidumping duty order on hand trucks from the PRC covering the POR of December 1, 2009, through November 30, 2010. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 75 FR 74682 (December 1, 2010). On January 28, 2011, the Department published in the Federal Register a notice of initiation of the antidumping duty administrative review of hand trucks from the PRC with respect to New-Tec. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 76 FR 5137 (January 28, 2011) (Initiation Notice).

We issued the standard antidumping duty questionnaire to New-Tec on February 2, 2011, and received timely responses from New-Tec in March 2011. We issued supplemental questionnaires to New-Tec covering sections A, C, and D of the original questionnaire in May 2011, August 2011, and November 2011 and received timely responses to those questionnaires.

On September 29, 2011, and November 7, 2011, respectively, we received separate rate applications from Yangjiang Shunhe Industrial Co., Ltd. (Yangjiang Shunhe) and Welcom Products Inc. (Welcom).

Period of Review

The POR is December 1, 2009, through November 30, 2010.

Scope of the Order

The merchandise subject to the antidumping duty order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof. A complete or fully assembled

hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of the order. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the order. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading

8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular materials measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, we have treated the PRC as a non-market economy (NME) country. See, e.g., Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 76336 (December 16, 2008); and Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 74 FR 10886 (March 13, 2009). In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See, e.g., Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment or provided record evidence for us to reconsider our continued treatment of the PRC as an NME. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control, and thus should be assessed a single antidumping duty rate.

It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers), as amplified by the Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide).

In the Initiation Notice, the Department stated that all firms that wish to qualify for separate-rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate-rate application or certification. See Initiation Notice, 76 FR at 5138. To establish separate-rate eligibility, the Department requires entities for which a review was requested, that were assigned a separate rate in the most recent segment of the proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. In this administrative review, Yangjiang Shunhe and Welcom each submitted a separate-rate application long after the 60-day deadline (September 29, 2011, and November 7, 2011, respectively) for when separate rate applications were due (i.e., March 29, 2011). The

Department generally will not accept separate rate requests from companies that were not requested to be reviewed. See Initiation Notice (“All firms listed below that wish to qualify for separate-rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate-rate application or certification, as described below”). Because no request for review of Yangjiang Shunhe and Welcom was submitted by an interested party, we did not initiate an administrative review with regard to either company’s shipments of subject merchandise. Accordingly, we preliminarily determine that neither firm is eligible to apply for a separate-rate in this review.

Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with the individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See Sparklers, 56 FR at 20589. In this review, New-Tec submitted complete responses to the separate rates section of the Department’s questionnaire. The evidence submitted by New-Tec includes government laws and regulations on corporate ownership and control (i.e., the Foreign Trade Law of the People’s Republic of China and the Law of the People’s Republic of China on Foreign Joint Ventures), its individual business license, and narrative information regarding its operations and selection of management. The evidence provided by New-Tec supports a preliminary finding of a de jure absence of government control over its export activities. Specifically, record evidence indicates that: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; (2) the government

of the PRC has passed legislation decentralizing control of companies; and (3) the government has taken formal measures to decentralize control of companies. See New-Tec's March 2, 2011, submission at 2-10.

Absence of De Facto Control

The absence of de facto government control over exports is based on whether the company: (1) sets its own export prices independent of the government and without the approval of a government authority; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; (4) has autonomy from the government regarding the selection of management. See Silicon Carbide, 59 FR at 22587; Sparklers, 56 FR at 20589; and Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

In its March 2, 2011 submission, New-Tec submitted evidence demonstrating an absence of de facto government control over its export activities. Specifically, this evidence indicates that: (1) the company sets its own export prices independent of the government and without the approval of a government authority; (2) the company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) the company has a general manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors; (5) the general manager appoints the other management personnel; and (6) there are no restrictions on the company's use of export revenues.

Therefore, we preliminarily find that New-Tec has established that it qualifies for a separate rate under the criteria established by Silicon Carbide and Sparklers.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.

The Department determined that Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine are countries comparable to the PRC in terms of economic development.¹ Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries that are producers of comparable merchandise. See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004). In the current segment of the proceeding, we received comments regarding surrogate country selection only from New-Tec. New-Tec argued that Thailand was the most comparable economically to the PRC and was a significant producer of hand trucks during the POR. See New-Tec's December 1, 2011 submission at 2. Among the countries identified as economically comparable to the PRC, based on record evidence, we find that Thailand is the most appropriate surrogate country for valuing FOPs because it is a significant producer of comparable merchandise, and we have reliable, publicly-available data from Thailand representing broad-market averages. Although New-Tec has submitted a

¹ See Memorandum from Carole Showers, Director, Office of Policy, to Angelica Mendoza, Program Manager, Office 7; Subject: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Hand Trucks and Parts Thereof from the People's Republic of China, dated August 15, 2011 (Surrogate Country List). The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC in terms of per capita gross national income.

financial statement from an Indian company producing identical merchandise, we note that New-Tec does not propose using India as a potential surrogate country. In addition, because we have determined that Thailand is both economically comparable to the PRC and a producer of comparable merchandise, and that Thai data is both publicly available and reliable, we need not resort to an alternative surrogate country which is not as economically comparable to the PRC as the countries on the Surrogate Country List. See 773(c)(4) of the Act; see also Memorandum to the File, from Scott Hoefke, Analyst, Subject: Antidumping Duty Administrative Review of Hand Trucks and Certain Parts Thereof from the People's Republic of China: Selection of a Surrogate Country, dated concurrently with this notice.²

U.S. Price

Pursuant to 19 CFR 351.401(i), we used invoice date as the date of sale. Because record evidence indicated the terms of New-Tec's U.S. sales changed following the contract date, we determine that invoice date better reflects when the material terms of sale are set. See 19 CFR 351.401(i); see also New-Tec's June 16, 2011 submission at 1.

In accordance with section 772(a) of the Act, we based New-Tec's U.S. prices on export prices, because its first sales to an unaffiliated purchaser were made before the date of importation and the use of constructed export price was not otherwise warranted by the facts on the record. As appropriate, we deducted foreign inland freight and foreign brokerage and handling from the starting price (or gross unit price), in accordance with section 772(c)(2) of the Act. These services were provided by NME vendors for New-Tec's U.S. sales. Therefore, we

² In the most recently completed proceeding involving the order, India was included in the Surrogate Country Memorandum. We determined that India was comparable to the PRC in terms of economic development and had surrogate value data that were publically available and reliable. See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results and Final Rescission in Part, of Antidumping Duty Administrative Review, 76 FR 36083 (June 21, 2011) (Hand Trucks 08/09 Final). Our position is that India may still be economically comparable, but is less so than those on the Surrogate Country List. Because Thailand meets all of our selection criteria, the Department has selected Thailand as the primary surrogate country for this administrative review.

based the deduction of these movement charges on surrogate values. See Memorandum to the File, “Administrative Review of Hand Trucks and Certain Parts Thereof from the People’s Republic of China: Surrogate Values for the Preliminary Results” (New-Tec Surrogate Values Memorandum), dated concurrently with this notice, at Exhibit 6.

We used Thai transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from *Doing Business 2011: Thailand*. This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the largest city in Thailand to the nearest seaport. We calculated the per-unit inland freight costs using the distance from Thailand's largest city, Bangkok, to the nearest seaport. We calculated a per-kilogram, per-kilometer surrogate inland freight rate of 0.0008 U.S. dollars per kilometer per kilogram based on using the full capacity of a 20-foot container as reported in the World Bank report. See New-Tec Surrogate Values Memorandum at Exhibit 6.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in *Doing Business 2011: Thailand*, published by the World Bank. See New-Tec Surrogate Values Memorandum at Exhibit 7.

Normal Value

1. Methodology

Section 773(c)(1)(A) and (B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise under review is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country

prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of the NME economy renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.³

In accordance with section 773(c) of the Act, we calculated NV by adding the value of the FOPs, general expenses, profit, and packing costs reported by New-Tec. The FOPs for subject merchandise include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. See section 773(c)(3) of the Act. We valued the FOP that New-Tec reported by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor derived from the Thai surrogate values selected.

The Department used Thailand import statistics to value the raw material and packing material inputs that New-Tec used to produce the merchandise under review except where listed below. We used data from the Thailand import statistics in the Global Trade Atlas (GTA), published by Global Trade Information Services, Inc. The GTA reports import statistics, such as those from Thailand, in the original reporting currency and thus these data correspond to the original currency value reported by each country. The record shows that data in the Thailand import statistics, as well as those from the other Thailand sources, are contemporaneous with the POR, product-specific, and tax-exclusive.⁴

³ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part, 70 FR 39744 (July 11, 2005), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review, 71 FR 2517 (January 17, 2006).

⁴ See New-Tec Surrogate Values Memorandum.

As appropriate, we added freight costs to the surrogate values that we calculated for New-Tec's material inputs to make these prices delivered prices. We calculated these freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. Where there were multiple domestic suppliers of a material input, we calculated a weighted-average distance after limiting each supplier's distance to no more than the distance from the nearest seaport to New-Tec. This adjustment is in accordance with the decision by the Court of Appeals for the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit. See New-Tec Surrogate Values Memorandum at Exhibit 8.

Other inputs consisted of water, electricity, carbon dioxide, and liquid petroleum gas. We valued electricity using an average price of energy sale to various customers as published by the Electrical Generating Authority of Thailand, Annual Report 2010: Key Statistical data. See New-Tec Surrogate Values Memorandum at Exhibit 4. To value water, the Department used the average of published water rates for Type 2 used by the Metropolitan Water Authority of Thailand, which are available at The Board of Investment of Thailand's website at www.boi.go.th. The Department found this source to be the best available information because it includes a wide range of industrial water rates. See New-Tec Surrogate Values Memorandum at Exhibit 4. We valued carbon dioxide and liquid petroleum gas using import statistics from the GTA as described above. See New-Tec Surrogate Values Memorandum at Exhibit 3.

New-Tec reported that scrap material are produced in the production process of hand trucks. New-Tec gathers all of the recovered material, weighs it, and then sells it to an

unaffiliated outside party. See New-Tec's March 23, 2011 submission at 47. Therefore, we offset New-Tec's material costs for revenue generated from the sale of recovered steel and aluminum. See New-Tec Surrogate Values Memorandum at Exhibit 3.

Thai surrogate values were denominated in baht and were converted to U.S. dollars using the applicable average exchange rate based on exchange rate data from the Department's website. For further details regarding the surrogate values used for these preliminary results see New-Tec Surrogate Values Memorandum.

New-Tec reported that several of its raw materials were produced in market-economy countries and paid for in market-economy currencies. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from a market-economy supplier in meaningful quantities (i.e., thirty-three percent or more not in an NME country), the Department normally will use the actual price paid by the respondent for those inputs.⁵ Because information reported by New-Tec demonstrates that it purchased meaningful quantities of certain inputs (e.g., hot-rolled steel, aluminum ingots, rubber wheels and various fasteners) produced in market economies, the Department used New-Tec's actual market-economy purchase prices to value its FOPs for these inputs because these prices constitute the best available information to value these FOPs. Where appropriate, we added freight expenses to the market-economy prices for these inputs. New-Tec also made market economy purchases that record evidence show were produced in a market economy but the purchased quantities were not meaningful (i.e., less than 33 percent of the total purchases). We valued such inputs (cold-rolled steel and polypropylene resin) using a weighted-average of the volume demonstrated to be manufactured in and purchased from a market-

⁵ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27366 (May 19, 1997).

economy country valued using the market-economy price and the volume manufactured in an NME valued using a surrogate value.⁶

To value the surrogate financial ratios for factory overhead (OH), selling, general & administrative (SG&A) expenses, and profit, the Department used the 2009-2010 financial statement of Prohandlift Equipment Company Limited (Prohandlift). Prohandlift is a producer of comparable merchandise in Thailand. Its financial ratios for OH and SG&A expenses are comparable to New-Tec's financial ratios by virtue of each company's production of comparable merchandise. See New-Tec Surrogate Values Memorandum at Exhibit 8.

2. Selection of Surrogate Values

In selecting the "best available information for surrogate values" (see section 773(c)(1) of the Act) consistent with the Department's practice, we considered whether the information was publicly available, product-specific, representative of broad market average prices, contemporaneous with the POR, and free of taxes.⁷ We also considered the quality of the source of surrogate information. See, e.g., Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 9.

In accordance with the legislative history of the Omnibus Trade and Competitiveness Act the Department continues to disregard surrogate values if it has a reason to believe or suspect the

⁶ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717 (October 19, 2006). See also Hand Trucks 08/09 Final, and accompanying Issues and Decision Memorandum at Comment 1.

⁷ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

source data may be subsidized.⁸ In this regard, the Department has previously found that it is appropriate to disregard prices based upon exports from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific export subsidies. Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, and South Korea may have benefitted from these subsidies.⁹ Additionally, we disregarded prices from NME countries. Finally, we excluded imports that were labeled as originating from an “unspecified” country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹⁰

On June 21, 2011, the Department announced its new methodology to value the cost of labor in NME countries. See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).¹¹ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for

⁸ See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁹ See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; and Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5.

¹⁰ See Fresh Garlic from the People’s Republic of China: Preliminary Results of New Shipper Review, 75 FR 24578, 24582 (May 5, 2010), unchanged in Fresh Garlic From the People’s Republic of China: Final Results of New Shipper Review, 75 FR 61130 (October 4, 2010).

¹¹ This notice followed the Court of Appeals for the Federal Circuit in Dorbest Ltd. v. United States, 604 F.3d 1363, 1372 (CAFC 2010), found that the “{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. § 1677b(c))}.”

industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook).

As announced above, the Department's latest methodology is to use data reported under Chapter 6A by the ILO. For this review the Department found that Thailand last reported data in 2000 for data 6A for Thailand under Sub-Classification 34 of the ISIC-Revision 3. However, Thailand did report total manufacturing wage data in 2005. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using total labor data reported by Thailand to the ILO, in accordance with section 773 (c)(4) of the Act. For the preliminary results the calculated wage rate is 134.59 Baht/hour. A more detailed description of the wage rate calculation methodology is provided in the New-Tec Surrogate Values Memorandum.

As stated above, the Department used Thailand ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Pursuant to Labor Methodologies, the Department's practice is to consider whether financial ratios reflect labor expenses that are included in other elements of the respondent's factors of production (e.g., general and administrative expenses). However, the financial statements used to calculate financial ratios in this review were insufficiently detailed to permit the Department to isolate whether any labor expenses were included in other components of NV. Therefore, in this review, the Department made no adjustment to these financial statements.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Import Administration Web site at <http://ia.ita.doc.gov/exchange/index.html>.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period December 1, 2009, through November 30, 2010:

| Manufacturer/Exporter | Weighted-Average Margin (Percent) |
|--|-----------------------------------|
| New-Tec Integration (Xiamen) Co., Ltd. | 0.02 |

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results. See 19 CFR 351.224(b). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1). Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name,

address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. See 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of these preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department notes that 19 CFR 351.301(c)(1), permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. See, e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2. Furthermore, the Department generally will not accept business proprietary information in either the surrogate value

submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis. However, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for New-Tec will be the rate established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in this administrative review, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of this proceeding; (3) for all other PRC exporters, the cash deposit rate will continue to be the PRC-wide rate (i.e., 383.60

percent); and (4) the cash-deposit rate for any non-PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Christian Marsh
Acting Assistant Secretary
for Import Administration

____ January 3, 2012 ____
Date

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